



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,190	01/24/2002	Kevin Xie	PLI-1013	4429

24984 7590 04/09/2004

ALBERT O COTA
5460 WHITE OAK AVE
SUITE A-331
ENCINO, CA 91316

EXAMINER

HRUSKOCI, PETER A

ART UNIT	PAPER NUMBER
----------	--------------

1724

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,190

Applicant(s)

XIE ET AL.

Examiner

Peter A. Hruskoci

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1724

The amendment filed 2-18-04 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The amendments to pages 1 and 5-11 lack clear antecedent basis in the specification as originally filed and appear to be drawn to new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1 "the target components" lack clear antecedent basis.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mamone 5,433,853 in view of Mauceri 4,026,794. Mamone disclose (see col. 1 line 5 through col. 4 line 44) a process for removing emulsified oil from waste water substantially as claimed. It is submitted the emulsified oil removed in Mamone is considered patentably indistinguishable from oil-in-water emulsion, and target components recited in the instant claims. The claims differ from Mamone by reciting that the precipitation is separated from the waste water utilizing a filtration means. Mauceri disclose (see col. 2 line 29 through col. 4 line 23) that it is known in the art to separate floc produced by trivalent cations from an oily waste water utilizing gravity separation as well as centrifugation and filtration. It would have been obvious to one skilled in

Art Unit: 1724

the art to modify the process of Mamone by utilizing the recited filtration means in view of the teachings of Mauceri, to aid in separating the precipitation or floc from the waste water. With regard to claim 2, it is submitted that the wastestreams treated in Mamone can be from chemical manufacturing which would appear to include the recited colloids. The specific type of filtration means utilized, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific waste water treated and results desired, absent a sufficient showing of unexpected results.

Applicant alleges that the emulsified oil disclosed in Mamone is clearly different from the oil in water emulsion or colloids specified in the instant claims. It is noted that the term "target components" appears to lack clear antecedent basis in the specification as originally filed, and is drawn to new matter. It is noted that the wastestreams of Mamone include chemical manufacturing wastestreams. Furthermore, applicant has not present sufficient comparative evidence with Mamone to support the above allegation.

Applicant argues that Mamone and Mauceri are not concerned with emulsion breakage because their purpose is to separate the oil from the water phase, whereas in the instant process, the emulsion breakage must be controlled because it is critical to keep the components in the oil particles within the emulsion for a successful process and to achieve treated water within the discharge limit. It is submitted that the processes disclosed in Mamone and Mauceri for separating oil from the water phase would appear to include emulsion breakage by the trivalent cations. It is further submitted that specific steps for controlling emulsion breakage, and keeping specific components in the oil particles are not recited in the instant claims. Furthermore, it appears that the process of Mamone and Mauceri form a precipitation including emulsified oils,

Art Unit: 1724

which is separated from the wastewater as recited in the instant claims. It is noted that the cationic polymers of Mamone and Mauceri are not excluded from the instant claims.

Applicant alleges that the process for removing emulsions and the wrapped target compounds from wastewater as claimed by applicant would not be successful if performed through any of the reference teaching. Applicant has not submitted sufficient comparative evidence with the prior art used in the above rejection to support the above allegation.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (571) 272-1160. The examiner can normally be reached on Monday through Friday from 6:30AM-4:00PM.

Art Unit: 1724

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Peter A. Hruskoci
Primary Examiner
Art Unit 1724

4/7/04